IN THE MATTER OF THE APPLICATION

6TH COUNCILMANIC DISTRICT

COUNTY BOARD OF APPEALS

CASE NO. 89-66-SPHA

OPINICN

This case comes before the Board as an appeal from an Order of the Deputy Zoning Commissioner dated December 8, 1988. The appeal is solely on condition three (3) of that Order.

Condition three of said Order stated that, "Within 120 days of the date o this Order, the existing 29.2 sq. ft. sign shall be reduced to a maximum of 20 sq. ft. total, of which 40" x 30" shall contain the lettering "Kaiser Permanente" and the remaining square footage shall contain only the lettering 9105 White Square Professional Building."

Prior to December 8, 1988 Order's proceedings, there was another zoning hearing on the same subject matter. In that zoning hearing, the Deputy Zoning Commissioner (Jean Jung) granted the request of the Petitioner, and allowed the zoning variance to permit a free-standing illuminated sign of 29.2 sq. ft. in lieu of the permitted 8 sq. ft. sign attached to the building. In granting the variance, the Deputy Zoning Commissioner made several restrictions. Restriction three (3) of that Order required the removal of a Radiation Oncology Center sign that is on the building unless the Petitioner can prove the sign was approved by permit prior to the date of this Order. This Order of the Deputy Zoning Commissioner Jung was dated November 17, 1986.

The Order of November 17, 1986 allowed the Kaiser Permanente, an HMO of Maryland, Virginia and D.C., the sign, but required the removal of the Radiation Oncology Center sign from the building.

Case No. 89-66-SPHA Franklin Square Hospital

Neither the proof required was provided nor the removal of the Radiation Oncology Center sign as required by the Order of the Deputy Zoning Commissioner dated November 17, 1986 was done, but the Kaiser Permanente sign was erected.

Again the Petitioners went before the Deputy Zoning Commissioner, Ann M. Nastarowicz, and it is her Order of December 8, 1988 that is the subject matter of this appeal.

The Appellant/Petitioner was represented by counsel, Michael A. Duff and Robert Hoffman. People's Counsel for Baltimore County was present in opposition to the appeal.

Melvin L. Jeffers, Vice President of Radamerica, Inc., a tenant, testified for the Appellant. He indicated the importance of having the Radiation Oncology Center sign, which consists of 8" illuminated letters mounted on a brick wall, to provide adequate notice to visitors of the center. He further testified that greater than 56% of the people visiting the center are over the age of 65. The people visiting the center are generally very infirmed and weak and all are referred by their doctors to Radamerica.

The Professional Building is a large structure with many entrances. Mr. Jeffers feels there is a need to give as much notification as possible to visitors to the center in order to prevent them from parking away from the center and coming in the wrong entrance. Additionally, Mr. Jeffers testified that once inside the Radiation Oncology Center entrance there.is a building directory listing the various tenants and their office locations.

The People's Counsel for Baltimore County did not offer any testimony or exhibits, but argued in support of the December 8, 1988 Order of the Deputy Zoning Commissioner.

Franklin Square Hospital

413.1 states:

In the closing statement, Counsel for the Appellant/Petitioner Robert Hoffman, argued a point never before presented in either of the prior hearings before the Deputy Zoning Commissioners. He argued that the Radiation Oncology Center sign was directional and informational in character and had no advertising aspect and therefore the Radiation Oncology Center sign is permitted as a matter of right under Baltimore County Zoning Regulations Section 413.1.e.3 B.C.Z.R.

The following signs are permitted in any zone, as limited in Section 413.5; if illuminated they shall be of an enclosed lamp design, non-flashing, containing no colored illumination, and may also be of the reflector type,

- e. Directional or information signs of a public or quasi-public nature, not exceeding 15 sq. ft. in area. Such signs shall contain no advertising matter, and shall not be illuminated, but may be of the beaded reflector type. They may state:
- (3) Signs - directional, informational, or warning in character, involving no advertising aspect, and each not exceeding 25 sq. ft.
- Mr. Hoffman further argued that the sign was generic in nature, and that visitors to the center are referred by their doctors.

The Board is persuaded by this argument and find that the Radiation Oncology Center sign is permitted as a matter or right under B.C.Z.R. 413.1.e.3.

Therefore, considering all of the testimony, exhibits and arguments, the Board is of the opinion that the Appellants/Petitioners request should be granted and will so order.

ORDER

It is therefore this 18th day of July, 1989, by the County Board of Appeals of Baltimore County ORDERED that the sign does not need to be removed Franklin Square Hospital

as ordered by the Deputy Zoning Commissioner's Order of December 8, 1988 and the existing sign may remain, but all other restrictions of said Order shall be complied with.

Any appeal from this decision must be made in accordance with Rules B-1 through B-13 of the Maryland Rules of Procedure.

> COUNTY BOARD OF APPEALS OF GALTIMORE COUNTY

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th Election District

Petitioner

* DEPUTY ZONING COMMISSIONER

* OF BALTIMORE COUNTY

* Case No. 89-66-SPHA

6th Councilmanic District Franklin Square Hospital ***

FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioner herein requests a special hearing to approve the removal of Restriction No. 3 in previous Case No. 87-176-A in which a 29.2 sq.ft., freestanding, illuminated sign was granted, and if approved, a variance to permit two signs totalling 46 sq.ft. in lieu of the one sign of 3 sq.ft. total, attached to the building, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Michael A. Duff, Esquire, appeared and testified. Also appearing on behalf of the Petition was Melvin L. Jeffers, Vice President of RADAMERICA, Inc., a tenant. There were no Protestants.

Testimony indicated that the subject property, known as 9105 Franklin Square Drive, is the site of the White Square Office Building. Previously, the White Square Limited Partnership and Germar Properties Limited, the then owner of the property, filed a Petition for Zoning Vari-C ance, Case No. 87-176-A, requesting permission to place a freestanding, illuminated sign of 29.2 sq.ft. in lieu of the permitted 8 sq.ft. sign attached to the building. Said sign was granted by the then Deputy Zoning Commissioner, Jean M. H. Jung, on November 17, 1986, conditioned upon the removal of all other freestanding signs or signs on the building, including the sign identifying the "Radiation Oncology Center" sign which is the subject matter of this proceeding. Petitioner was advised that all other signs were to be removed within thirty (30) days of the date of the Order unless proof that prior permits were issued could be provided.

Petitioner has not been able to produce any permits for the aforementioned sign and have therefore requested the instant variance. Mr. Jeffers indicated the importance of having the radiation oncology center sign, which consists of 8" illuminated letters mounted on a brick wall, to provide adequate notice to visitors of the center. Mr. Jeffers testified that greater than 56% of the people visiting the site are over 65 years of age. He further indicated that the patients visiting the center are generally very infirm and weak. The White Square Professional Building is a large structure with multiple entrances. Mr. Jeffers argued that as much notification as possible to visitors of the center was necessary to prevent them from parking long distances away from the center and coming in the wrong entrance. To support Petitioner's request, a picture of the subject building and the proposed sign was introduced by Mr. Jeffers and is identified herein as Petitioner's Exhibit 2. Testimony further indicated that Mr. Jeffers was not aware that the previous Order required the removal of the existing radiation oncology center sign.

Petitioner requested a variance for two signs totalling 46 sq.ft. to be used as follows: 16.7 sq.ft. for "Radiology Oncology Center;" an existing sign of 29.2 sq.ft., of which 100" x 30" will identify "9105 O O O White Square Professional Building" and 40" x 30" will identify "Kaiser Permanente." Petitioner presented no testimony as to the need for the existing 29.2 sq.ft. sign to remain the same size. To insure the spirit and intent of the B.C.Z.R. are met, Petitioner's request shall be modified as set forth below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

- 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily burdensome:
- 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and
- 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974).

After due consideration of the testimony and evidence presented, it is clear that the proposed sign, which consists of not greater than 16.7 sq.ft., is necessary. To deny the relief requested for the radiation oncology center sign would result in practical difficulty or unreasonable hardship to visitors to the center. Further, the granting of this request would not result in any detriment to the health, safety and general welfare of the community in which it serves, and in fact, would be to their However, the issue in this matter further involves the existing 29.2 sq.ft. sign. Petitioner was fully aware that the granting of that sign in Case No. 87-176-A was contingent upon the removal of all other signs on the building. Petitioner proceeded to install the granted sign without removing the existing signs or requesting a modification of the relief granted. In the opinion of the Deputy Zoning Commissioner the

modification of Petitioner's request in this instance as hereinafter set forth is appropriate.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this _____ day of December, 1988 that the Petition for Special Hearing to approve the removal of Restriction No. 3 in previous Case No. 87-176-A in which a 29.2 sq.ft., freestanding, illuminated sign was granted, and the Petition for Zoning Variance to permit two signs totalling 36.7 sq.ft. in lieu of the one sign of 8 sq.ft. total, attached to the building, in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

1) The Petitioner may apply for its sign permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original condition.

2) One of the signs granted herein is specifically limited to the existing sign attached to the building, totalling 16.7 sq.ft., with the lettering "Radiology Oncology Center."

3) Within 120 days of the date of this Order, the existing 29.2 sq.ft. sign shall be reduced to a maximum of 20 sq.ft. total, of which 40" x 30" shall contain the lettering "Kaiser Permanente" and the remaining square footage shall contain only the lettering "9105 White Square Professional Building."

4) Prior to the installation of the new 20 sq.ft. sign, a sign drawing shall be submitted to the Deputy Zoning Commissioner for approval.

5) Petitioner shall comply with Restrictions Nos. 1 end 2 of the Order issued November 17, 1986 which provide the following:

a) The 30" x 40" sign shall be removed when either Kaiser Permanente or any other HMO no longer occupy the space leased.

b) Illumination of all signs shall be extinguished by 9:00 PM.

AMN:bjs

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

CERTIFICATE

유

UBLICATION

J. Robert Haines
Loning Commissions

Michael A. Duff, Esquire
Venable, Baetjer and Howard

Baltimore County ?

Zoning Commissioner
Office of Planning & Zoning

Towson, Maryland 21204

2 Hopkins Plaza
Baltimore, Maryland 21201

RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE
SE/S Franklin Square Drive, 220' NE of Lennings Lane
(9105 Franklin Square Drive)

Franklin Square Hospital - Petitioner

14th Election District - 6th Councilmanic District

Case No. 89-66-SPHA
Dear Mr. Duff:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petitions for Special Hearing and Zoning Variance have been granted as modified in the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact Ms. Charlotte Radcliffe at 494-3391.

Very truly yours,

ANN M. NASTAROWICZ
Deputy Zoning Commissioner
for Baltimore County

cc: Mr. Melvin L. Jeffers

RADAMERICA, Inc.
9105 Franklin Square Drive, Suite 202, Baltimore, Md. 21237

People's Counsel

File

ACE FOR I CL SHIPMENT, YO ST APPEAR ON Y	ENDER SEP- EACH ORDER OUR FEDERAL OUR INVOICE. 401	BALTIMORE	COUNTY, M. CHASING BUREA 112, COURTS BUILE • TOWSON, MAR	ARY LAND U DING YLAND 21204-445	J6	IRCHASE ORDER NO	PAGE 1	
DOR NO. 149725 DOTE C8/15/88 ED TO AVENUE.INC. P.O. BOX 7889 442 EASTERN BLVC. ESSEX DATE C8/15/88 SHIP TO THE ZUNING UFFICE ROOM 109 COUNTY OFFICE BUILD. 111 M CHESAPEAKE AVE. TOWSON MD 21204 1110 F.O.L.								
A ON OR BEFORE	BUYER S. HAFNER	494-3047 NET		δ	DESTINATION			
8/12/88	COMMODITY NUM			QUANTIT	Y U/M	UNIT PRICE	EXTENDED PRICE	
TO ADVI	SE FURNISH UK	REQ# M1 C NG VARIANC -SPHA RE DRIVE RICT-6TH (NKLIN SQUA SQUARE LIN THURSDAY 1.M. 1GINAL AND DF PUBLIC	E AND 220° NE COUNCILMAN ARE HOSPIT MITED PART SEPTEMBE	R S S S S S S S S S S S S S S S S S S S	EA		••	
RCOM 111	Subject to cancellatingency PROG. 081-	KE AVET	116.5	specified. OUR PURCHAS COMMODITY N	J. MUSI CI	NO., ITEM NO., AN PEAR ON ALL PACINO INVOICES. RE EXEMPT FRO		

	CARCIAL HEARING
SOR ZON	ING VARIANCE AND SPECIAL HEARING COUNTY: 87-46-5PHA
TO THE ZONING COMMISSIONES OF BALTIMORE	COUNTY: 87-46-SPAA
TO THE ZONING COMMISSIONED OF BALITMORE The undersigned, legal owner(s) of the property described in the description and plat attached hereto 2.03.3.C To permi	y situate in Baltimore County and y situate in Baltimore County and a part hereof, hereby petition for a
The undersigned, legal during attached hereto	t two signs totalling 46 square special hearing and
Variance from Section 2:03.3.C To perma	special hearing special hearin
Variance in lieu of the permitted one	8 sq. It- 319.
square foot, freestanding, illumin of the Zoning Regulations of Baltimore County, to the Zoning Regulations of Baltimore County, to the Zoning Regulations of Baltimore County, to the Zoning reasons: (indica) hardship or practical displaying reasons:	ated sign was drafted County; for the
of the Zoning Regulations of Baltimore County, to the Zoning Regulations of Baltimore County, to the of the Zoning Regulations of Baltimore County, to the of the Zoning Regulations of Baltimore County, to the of the Zoning Regulations of Baltimore County, to the of the Zoning Regulations of Baltimore County, to the of the Zoning Regulations of Baltimore County, to the office of the Zoning Regulations of Baltimore County, to the county of the Zoning Regulations of Baltimore County, to the county of the Zoning Regulations of Baltimore County, to the Zoning Regulations of Baltimore County, to the Zoning Regulations of Baltimore County, to the county of the Zoning Regulations of Baltimore County, to the county of the Zoning Regulations of Baltimore County, to the county of the Zoning Regulations of the Zoning Regulation Regulations of the Zoning Regulation Regulation	ifficulty)
following reasons: (indica.) statement	medical offices of one of the MAP NE5G ts. Without which hardship would 48 ts. Without which hardship would 48
To allow identification of the	medical offices of one of the medical offices of one of the would 48 ts. Without which hardship would 48 ts. Without which hardship would 48 ts. 5-15-50
tenants of the bull-	DATE 5-15-90
	200 Bt
	The state of the s
Property is to be posted and advertised as	had by Zoning Regulations.
Property is to be posted and above Vari	iance advertising, posting, etc., upon filing of the day the zoning regulations, and restrictions of Law For Baltimore County,
I, or we, agree to pay expenses of above Vari petition, and further agree to and are to be bound petition.	d by the zoming legacianty, Law For Baltimore County,
I, or we, agree to pay expenses of above var- petition, and further agree to and are to be bound Baltimore County adopted pursuant to the Zoning	I/We do solution, that I/We
	under the penalties of the property
	which is the subject to
	Legal Owner(s):
Lessee: THE WHITE SQUARE LIMITED PARTNERSHIP	FRANKLIN SQUARE HOSPITAL (Pype of Print Name)
	/ William Mason
h-1/1/2	Signature Michael Merson, President &
Signature Willard Hackerman, General Partner	CEO
300 E. Joppa Boad	(Type or Print Name)
Address Baltimore, Maryland 21204-3048	podrocoobavánompoápsky spokrosy podrocy podroco podroc
City and State	Signature
	9000 Franklin Square Drive 682-7000
Attorney for Petitioner: Nichael A. Duff	Address
(Type or Print Name)	Baltimore, Maryland 21237
Thursday seff	City and State
Venable, Baetjer and Howard	Name, address and phone number of legal owner, con- tract purchaser or representative to be contacted
2 Hopkins Plaza	Mel Jeffers
Baltimore, Maryland 21201	
T A Class and State	
Attorney's Telephone Ito.	Address 199th
Toming Commission	er of Baltimore County, this
	er of Baltimore county, at the subject matter of this petition be advertised, as county, in two newspapers of general circulation through- county, in two newspapers of general circulation through-
of the Zoning Law of Balling	and that the public hearing in Towson, Baltimore
out partitioner of Baltimore County in the	county, in two newspapers to county, in two newspapers be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing be had before the zoning ted, and that the public hearing in Towson, Baltimore to the public hearing ted, and that the public hearing ted, and that the public hearing ted, and the public hearing ted to the zoning ted to the public hearing ted to the publi
Commissioner of 15th day	of
C & (County, or are seen	1. Robert flaines
o o o o	L. Robert Stainer
	Zoning Commissioner of Bakimore County.
OR EXARING (1/2HR.)	▲18 8.
ESTIMATED LENGTH OF BEARING	(over)
MON./TUES./WED NEXT	
2008	
REVIEWED BY:	
	The state of the s
CE	RTIFICATE OF PUBLICATION
NOTICE OF HEARING	TOWSON, MD., Wyust 25, 1988
	HIS IS TO CERTIFY, that the annexed advertisement was
Bultimore County, by authority of	nio io To Centiri, mat me annoted advertisement that

CERTIFICATE OF POSTING

ZONING DEPARTMENT OF BALTIMORE COUNTY

Toursen, Maryland

District //Th	Date of Posting 174/81 Pocial Hooring Lesson The White Sp Hinted Partnerships
Posted for: 104 such 4 22 Petitioner: Front Him Se How Location of property: 5 E/S From	Him Sp Porto, 200 HE/Lonningstons
	tioner
Remarks:	0/2/87

associates, inc. surveyors-engineers

FRANKLIN SOLIARE DRIVE, BALTINORE COUNTY, HARYLAND

DESCRIPTION OF PROPERTY

OF GERMAN PROPERTIES, LIMITED

ALEXANDER P GATY GLAT L COANGIA

ineers

BEGINNING FOR THE SAME at an iron pipe now set on the Southeasterly side of Franklin Square Drive as shown on Baltimore County Bureau of Land Acquisition Plat RW 75-056-1/and at the beginning point of land which by Deed dated June 2, 1982 and recorded among the Land Records of Baltimore County in Liber 6423, page 089 was conveyed by Simon II. Nohr and wife to Germar Properties, Limited; thence leaving said point of beginning and binding along the Southeasterly side of Franklin Square Drive and running reversely along the last ling of the

side of Franklin Square Drive and running reversely along the last lin2 of the beforementioned Deed North 50 degrees 03 minutes 25 seconds East 400.07 feet to an iron pipe now set; thence leaving Franklin Square Drive and binding along the outlines of the beforementioned Deed, as now surveyed, the following three courses and distances: (1) South 50 degrees 04 minutes 50 seconds East 546.00 feet to an iron pipe now set (2) South 50 degrees 05 minutes 00 seconds West 398.86 feet to an iron pipe now set and (3) North 50 degrees 12 minutes 32 seconds West 546.02 feet to the point of beginning; containing

BEING all of the land which by the hereinmentioned Deed dated June 2, 1982 and recorded amongsthe Land Records of Baltimore County in Liber 6423, page 089 was conveyed by Simon H. Mohr and wife to Germar Properties, Limited.

11/18/1983

4.9278 acres more or less.



MICBUELL ME

Baltimore County
Zoning Commissioner
Office of Planning & Zoning
Towson, Maryland 21204
494-3353

J. Robert Haine

Date: 8/30/08

Mr. Willard Hackerman, General Partner The White Square Limited Partnership 300 E. Joppa Road Baltimore, Maryland 21204-3048

Dennis F. Rasm County E

Re: Petitions for Zoning Variance and Special Hearing CASE NUMBER: 89-66-SPHA
SE/S Franklin Square Drive, 220' NE Lennings Lane
14th Election District - 6th Councilmanic
Petitioner(s): Franklin Square Hospital
Lessee: The White Square Limited Partnership
HEARING SCHEDULED: THURSDAY, SEPTEMBER 15, 1988 at 9:00 a.m.

Dear Mr. Hackerman:

Please be advised that \(\frac{\frac{7}{06.30}}{106.30}\) is due for advertising and posting of the above-referenced property. All fees must be paid prior to the hearing. Do not remove the sign and post set(s) from the property from the time it is posted by this office until the day of the hearing itself.

THIS FEE MUST BE PAID AND THE ZONING SIGN(S) AND POST(S) RETURNED ON THE DAY OF THE HEARING OR THE ORDER SHALL NOT BE ISSUED.

BALTIMORE COUNTY, MARYLAND OFFICE OF FINANCE - REVENUE DIVISION MISCELLANEOUS CASH RECEIPT	No. 059	116	inutes before ost set(s), ach set not
DATE 9//5/88 ACCOUNT	106.30	2	
RECEIVED Casamerica	Jonklin S	quare) in	es
B C12 19	530:87-66	-SPH	of

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 494-3353 J. Robert Kaines
Zoning Commissioner

NOTICE OF HEARING



The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing on the property identified herein in Room 106 of the County Office Building, located at 111 W. Chesapeake Avenue in Towson, Maryland as follows:

Petitions for Zoning Variance and Special Hearing CASE NUMBER: 89-66-SPHA SE/S Franklin Square Drive, 220' NE Lennings Lame 14th Election District - 6th Councilmanic Petitioner(s): Franklin Square Hospital Lessee: The White Square Limited Partnership HEARING SCHEDULED: THURSDAY, SEPTEMBER 15, 1988 at 9:00 a.m.

Variance to permit two signs totalling 46 sq. ft. in lieu of the permitted one 8 sq. ft. sign attached to the building. Special Hearing: To delete restriction No. 3 in Zoning Case 87-176A in which a 29.2 sq. ft. freestanding, illuminated sign was granted.

In the event that this Petition is granted, a building permit may be issued within the thirty (30) day appeal period. The Zoning Commissioner will, however, entertain any request for a stay of the issuance of said permit during this period for good cause shown. Such request must be in writing and received in this office by the date of the hearing set above or presented at the hearing.

J. ROBERT HAINES Zoning Commissioner of Baltimore County cc: Mr. Mel Jeffers Michael A. Duff. Eso Mr. Michael Merson File Mr. Willard Hackerman

BEFORE THE COUNTY BOARD OF APPEALS RE: PETITION FOR ZONING VARIANCE OF BALTIMORE COUNTY

SE/S Franklin Square Dr., 220° NE of Lennings La. (9105 Franklin Sq. Dr.), 14th Election Dist.; 6th Councilmanic Dist.

Petitioner }

: Zoning Case No. 89-66-SPHA FRANKLIN SQUARE HOSPITAL,

ENTRY OF APPEARANCE

::::::

Please enter the appearance of the People's Counsel in the abovecaptioned matter. Notices should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

> Phyllis Cole Friedman People's Counsel for Baltimore County

Peter Max Zimmerman Deputy People's Counsel Room 304, County Office Building Towson, Maryland 21204 494-2188

I HEREBY CERTIFY that on this 7th day of April, 1989, a copy of the foregoing Entry of Appearance was mailed to Michael A. Duff, Esquire, Venable, Baetjer & Howard, 2 Hopkins Plaza, Baltimore, MD 21201, Attorney for Petitioner.

. County Board of Appeals of Baltimore County COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

May 12, 1989

Michael Duff, Esquire 1800 Mercantile Bank & Trust Bldg.

Baltimore, Maryland 21201 Re: Case No. 89-66-SPHA Franklin Square Hospital

Dear Mr. Duff:

Enclosed please find a copy of Bill No. 59-79 which sets out the Rules of Practice and Procedure of the County Board of Appeals.

If I can be of any further assistance, please do not hesitate to

Legal Secretary

Enclosure

contact me.

2 Hopkins Plaza

ZONING DEPARTMENT OF BALTIMORE COUNTY 89-66-501.A

3/21/89 -Following notified of hearing set for Friday, June 2, 1989 at 1:00 p.m.:

" Michael A. Duff, Esq.

Mr. Michael Merson Mr. Melvin Jeffers

People's Counsel P. David Fields

J. Robert Haines

Ann Nastarowicz

Docket Clerk -Zoning

Arnold Jablon, Esq.

James E. Dyer

Pat Keller

Location of property SFLS Franklin SE Drive; 220' NEfferming Long Location of Signer Focisty Front / 12 Sp. Dride, oppier, 25 Fr. nodway on proporty of Petitions

Baltimore County Zoning Commissioner Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines
Zoning Commissioner

February 2, 1989



Baltimore County Board of Appeals County Office Building, Room 315 Towson, Maryland 21204

RE: Petition for Zoning Variance SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th Election District, 6th Councilmanic District FRANKLIN SQUARE HOSPITAL - Petitioner Case No. 89-66-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case (Zoning Variance only) was filed in this office on January 9, 1988 by Michael A. Duff, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

Enclosures 7

cc: Mr. Michael Merson, President & CEO, Franklin Square Hospital 9000 Franklin Square Drive, Baltimore, Maryland 21237

Mr. Melvin Jeffers, Vice President, RADAMERICA, Inc. 9105 Franklin Square Drive, Baltimore, Maryland 21237 Mr. Michael A. Duff, 1800 Mercantile Bank & Trust Building 2 Hopkins Plaza, Baltimore, Maryland 21201

People's Counsel of Baltimore County

VENABLE, BAETJER AND HOWARD

ATTORNEYS AT LAW A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS 1800 MERCANTILE BANK & TRUST BUILDING WASHINGTON, D.C. OFFICE 2 HOPKINS PLAZA SUITE 1200 1301 PENNSYLVANIA AVENUE, N.W. WASHINGTON, D.C. 20004

VIRGINIA OFFICES PLAZA SUITE THREE 4141 NORTH HENDERSON ROAD ARLINGTON, VIRGINIA 22203 BALTIMORE, MARYLAND 21201 (703) 243-5000 (301) 344-7400 ____

WRITER'S DIRECT NUMBER IS 244-7761

SUITE 500 2000 CORPORATE RIDGE MCLEAN, VIRGINIA 22102 (703) 749-3500

January 9, 1989

HAND DELIVERED

RICHARD M. VEHABLE (1836-1810) - EDWM S. BAEVJER (1866-1846) GHARLES HON. HOWARD (1870-1846)

89 APR -7 PH 12: 24"

COUNTY BOARD OF APPEALS

Mr. J. Robert Haines, Zoning Commissioner Baltimore County Office of Planning & Zoning County Office Building - Room 113 Towson, Maryland 21204

Re: Petition for Special Hearing and Zoning Variance - SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th
Election District - 6th Councilmanic District
Case No. 89-66-SPHA

ATTENTION: Ms. Charlotte Radcliffe

Dear Mr. Haines:

I am writing to formally request an appeal of the referenced zoning case on behalf of the Petitioners, RADAMERICA, Inc. and Whitesquare Limited Partnership. Our RADAMERICA, Inc. and Whitesquare Limited Partnership. Our appeal is solely of Condition No. 3 of the December 8, 1988 Order rendered by Deputy Zoning Commissioner Ann M. Nastarowicz (a copy of that Order is attached). I enclose a check payable to Baltimore County in the amount of Ninety Dollars (\$90.00) to cover the filing fee for this appeal.

Very truly yours,

Enclosure cc: Mr. Melvin L. Jeffers Mr. Dan Dick

1-9-89 (O.K.-CW)

IN RE: PETITIONS FOR SPECIAL HEARING AND ZONING VARIANCE - SE/S Franklin Square Drive, 220' * DEPUTY ZONING COMMISSIONER NE of Lennings Lane (9105 Franklin Square Drive) * OF BALTIMORE COUNTY 14th Election District 6th Councilmanic District * Case No. 89-66-SPHA Franklin Square Hospital

FINDINGS OF FACT AND CONCLUSIONS OF LAW

* * * * * * * * * * *

The Petitioner herein requests a special hearing to approve the remarks. The refer to the control of providing to. 87-173-A in units a zone sq.ft., freestanding, illuminated sign was granted, and if approved, a variance to permit two signs totalling 46 sq.ft. in lieu of the one sign of 8 sq.ft. total, attached to the building, all as more particularly described in Petitioner's Exhibit 1.

The Petitioner, by Michael A. Duff, Esquire, appeared and testified. Also appearing on behalf of the Petition was Melvin L. Jeffers, Vice President of RADAMERICA, Inc., a tenant. There were no Protestants.

Testimony indicated that the subject property, known as 9105 Franklin Square Drive, is the site of the White Square Office Building. Previously, the White Square Limited Partnership and Germar Properties Limited, the then owner of the property, filed a Petition for Zoning Variance, Case No. 87-176-A, requesting permission to place a freestanding, illuminated sign of 29.2 sq.ft. in lieu of the permitted 8 sq.ft. sign attached to the building. Said sign was granted by the then Deputy Zoning Commissioner, Jean M. H. Jung, on November 17, 1986, conditioned upon the removal of all other freestanding signs or signs on the building, inclusing the sign identifying the "Radiation Oncology Center" sign which is the subject matter of this proceeding. Petitioner was advised that all other

signs were to be removed within thirty (30) days of the date of the Order unless proof that prior permits were issued could be provided.

Petitioner has not been able to produce any permits for the aforementioned sign and have therefore requested the instant variance. Mr. Jeffers indicated the importance of having the radiation oncology center sign, which consists of 8" illuminated letters mounted on a brick wall, to provide adequate notice to visitors of the center. Mr. Jeffers testified that greater than 56% of the people visiting the site are over 65 years of age. He sufflies a fine passents visiting are generally very infirm and weak. The White Square Professional Building is a large structure with multiple entrances. Mr. Jeffers argued that as much notification as possible to visitors of the center was necessary to prevent them from parking long distances away from the center and coming in the wrong entrance. To support Petitioner's request, a picture of the subject building and the proposed sign was introduced by Mr. Jeffers and is identified herein as Petitioner's Exhibit 2. Testimony further indicated that Mr. Jeffers was not aware that the previous Order required the removal of the existing radiation oncology center sign.

Petitioner requested a variance for two signs totalling 46 sq.ft. to be used as follows: 16.7 sq.ft. for "Radiology Oncology Center;" an existing sign of 29.2 sq.ft., of which 100" x 30" will identify "9105 White Square Professional Building" and 40" x 30" will identify "Kaiser Permanente.* Petitioner presented no testimony as to the need for the existing 29.2 sq.ft. sign to remain the same size. To insure the spirit and intent of the B.C.Z.R. are met. Petitioner's request shall be modified as set forth below.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and his property. McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that

3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28 (1974)

After due consideration of the testimony and evidence presented, it is clear that the proposed sign, which consists of not greater than 16.7 sq.ft., is necessary. To deny the relief requested for the radiation oncology center sign would result in practical difficulty or unreasonable 1 rdship to visitors to the center. Further, the granting of this request would not result in any detriment to the health, safety and general welfare of the community in which it serves, and in fact, would be to their penefit. However, the issue in this matter further involves the existing 29.2 sq.ft. sign. Petitioner was fully aware that the granting of that sign in Case No. 87-176-A was contingent upon the removal of all other signs on the building. Potitioner represents to torrell the granted rise without removing the existing signs or requesting a modification of the relief granted. In the opinion of the Deputy Zoning Commissioner the

modification of Petitioner's request in this instance as hereinafter set forth is appropriate.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the special hearing should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this _____ day of December, 1988 that the Petition for Special Hearing to approve the removal of Restriction No. 3 in previous was granted, and the Petition for Zoning Variance to permit two signs totalling 36.7 sq.ft. in lieu of the one sign of 8 sq.ft. total, attached to the building, in accordance with Petitioner's Exhibit 1, be and are hereby GRANTED, subject, however, to the following restrictions, which are conditions precedent to the relief granted:

> 1) The Petitioner may apply for its sign permit and be granted same upon receipt of this Order; however, Petitioner is hereby made aware that proceeding at this time is at its own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the Petitioner would be required to return, and be responsible for returning, said property to its original

> 2) One of the signs granted herein is specifically limited to the existing sign attached to the building, totalling 16.7 sq.ft., with the lettering "Radiology

3) Within 120 days of the date of this Order, the existing 29.2 sq.ft. sign shall be reduced to a maximum of 20 sq.ft. total, of which 40" x 30" shall contain the lettering "Kaiser Permanente" and the remaining square footage shall contain only the lettering "0100 white square processional suitaing."

4) Prior to the installation of the new 20 sq.ft. sign, a sign drawing shall be submitted to the Deputy Zoning Commissioner for approval.

5) Petitioner shall comply with Restrictions Nos. 1 and 2 of the Order issued November 17, 1986 which provide the following:

a) The 30" x 40" sign shall be removed when either Kaiser Permanente or any other HMO no longer occupy the space leased.

- b) Illumination of all signs shall be extinquished by 9:00 PM.

> a 4 Nustanovia ANN H. NASTAROWICZ Deputy Zoning Commissioner For Baltimore Councy

Baltimore County Zoning Commissioner
Office of Planning & Zoning Towson, Maryland 21204 (301) 887-3353 J. Robert Haines

NN:223

February 2, 1989



Baltimore County Board of Appeals County Office Building, Room 315 Towson, Maryland 21204

RE: Petition for Zoning Variance SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th Election District, 6th Councilmanic District FRANKLIN SQUARE HOSPITAL - Petitioner Case No. 89-66-SPHA

Dear Board:

Please be advised that an appeal of the above-referenced case (Zoning Variance only) was filed in this office on January 9, 1988 by Michael A. Duff, Attorney on behalf of the Petitioner. All materials relative to the case are being forwarded herewith.

Please notify all parties to the case of the date and time of the appeal hearing when it has been scheduled. If you have any questions concerning this matter, please do not hesitate to contact this office.

JRH:cer

Enclosures

cc: Mr. Michael Merson, President & CEO, Franklin Square Hospital 9000 Franklin Square Drive, Baltimore, Maryland 21237

Mr. Melvin Jeffers, Vice President, RADAMERICA, Inc. 9105 Franklin Square Drive, Baltimore, Maryland 21237

Mr. Michael A. Duff, 1800 Mercantile Bank & Trust Building 2 Hopkins Plaza, Baltimore, Maryland 21201

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Case File No. 89-66-SPHA

Petition for Zoning Variance SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th Election District - 6th Councilmanic District Franklin Square Hospital - Petitioner Case No. 89-66-SPHA

Petition for Zoning Variance

Description of Property

Certificate of Posting

Certificate of Publication

Entry of Appearance of People's Counsel (None submitted)

Zoning Plans Advisory Committee Comments

Director of Planning & Zoning Comments

Petitioner's Exhibits: 1. Plan & Plat to accompany Zoning Petition

2. 8" x 11" photograph of building

3. 8" x 11" photograph of building

4. Polaroid photograph of building

5. Copy of Quotation for Signage

Deputy Zoning Commissioner's Order dated December 8, 1989, (Zoning Variance granted with restrictions)

Notice of Appeal received January 9, 1989, from Michael A. Duff, Attorney on behalf of the Petitioner.

cc: Mr. Michael Merson, President & CEO, Franklin Square Hospital 9000 Franklin Square Drive, Baltimore, Maryland 21237

Mr. Melvin Jeffers, Vice President, RADAMERICA, Inc. 9105 Franklin Square Drive, Baltimore, Maryland 21237

Mr. Michael A. Duff, 1800 Mercantile Bank & Trust Building 2 Hopkins Plaza, Baltimore, Maryland 21201

People's Counsel of Baltimore County Rm. 304, County Office Bldg., Towson, Md. 21204

Request Notification: P. David Fields, Director of Planning & Zoning Patrick Keller, Office of Planning & Zoning J. Robert Haines, Zoning Commissioner Ann M. Nastarowicz, Deputy Zoning Commissioner James E. Dyer, Zoning Supervisor Docket Clerk

VENABLE, BAETJER AND HOWARD ATTORNEYS AT LA. A PARTHERSHIP INCLUDING PROFESSIONAL CORPORATIONS

H PENNSYLVANIA AVENUE, N.W. BALTIMORE, MARYLANO 21201 ASHINGTON, D.C. 20004 (30) 244-7400 (202) 662-4300 MICHARD M. VENABLE (1636-910) EDWIN G. BALTIJER (1666-1648) CHARLES MON. HOWARD (1670-1648)

SUITE 500 2000 CORPORATE RIDGE MCLEAN, VIRGINIA 22102 WRITER'S DIRECT NUMBER IS 244-7761

PLAZA SUITE THREE 4HI NORTH HENDERSON ROAD

ARLINGTON, VIRGINIA 22203

January 9, 1989

1800 MERCANTILE BANK & TRUST BUILDING

2 HOPKINS PLAZA

the same and the s

WASHINGTON, D.C. OFFICE

SUITE 1200

HAND DELIVERED Mr. J. Robert Haines, Zoning Commissioner Baltimore County Office of Planning & Zoning County Office Building - Room 113 Towson, Maryland 21204

Re: Petition for Special Hearing and Zoning Variance - SE/S Franklin Square Drive, 220' NE of Lennings Lane (9105 Franklin Square Drive) 14th
Election District - 6th Councilmanic District
Case No. 89-66-SPHA

ATTENTION: Ms. Charlotte Radcliffe

Dear Mr. Haines:

I am writing to formally request an appeal of the referenced zoning case on behalf of the Petitioners, referenced zoning case on Denait of the Petitioners,
RADAMERICA, Inc. and Whitesquare Limited Partnership. Our
appeal is solely of Condition No. 3 of the December 8, 1988
Order rendered by Deputy Zoning Commissioner Ann M. Nastarowicz
(a copy of that Order is attached). I enclose a check payable
to Baltimore County in the amount of Ninety Dollars (\$90.00) to cover the filing fee for this appeal.

Very truly yours,

Enclosure cc: Mr. Melvin L. Jetfers Mr. Dan Dick 5809T

1-9-89 (O.K.-OU)



County Board of Appeals of Baltimore County

COUNTY OFFICE BUILDING, ROOM 315 111 W. CHESAPEAKE AVENUE TOWSON, MARYLAND 21204 (301) 887-3180

July 18, 1989

Michael A. Duff, Esquire 1800 Mercantile Bank & Trust Building 2 Hopkins Plaza Baltimore, Maryland 21201

was a first war and the same and

Re: Case No. 89-66-SPHA Franklin Square Hospital

Dear Mr. Duff:

Enclosed is a copy of the final Opinion and Order issued this

date by the County Board of Appeals regarding the subject matter.

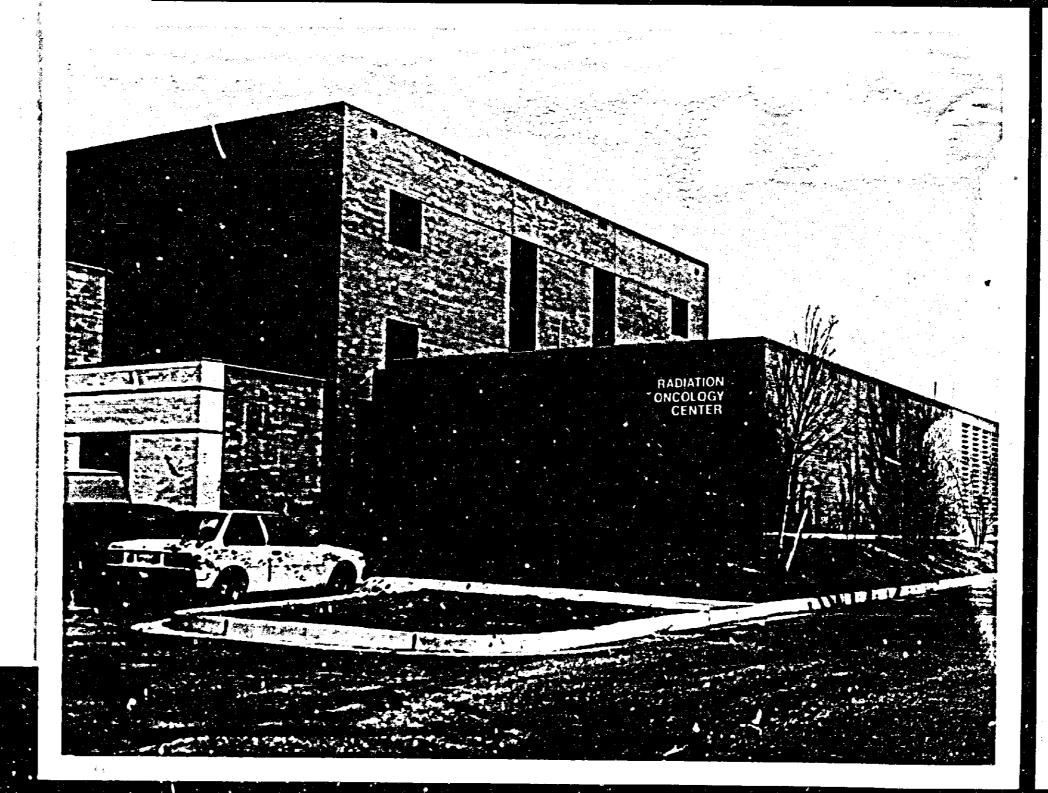
Legal Secretary

Enclosure

cc: People's Counsel for Baltimore County Mr. Melvin Jeffers

Mr. Michael Merson P. David Fields Pat Keller J. Robert Haines Ann M. Nastarowicz James E. Dyer

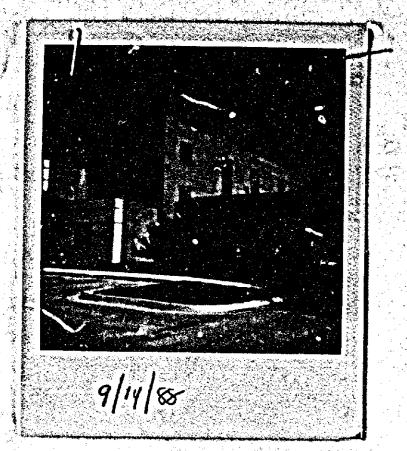
Docket Clerk Arnold Jablon, County Attorney







PETITIONER(S) EXHIBIT (



89-66-SPHA

BALTIMORE COUNTY OFFICE OF PLANNING & ZONING

County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204

Your petition has been received and accepted for filing this

White Squre Ltd. Partnership JONING COMMISSIONER Petitioner Lessee Petitioner's Attorney

James E. Dyer
Chairman, Zoning Plans
Advisory Committee

BALTIMORE COUNTY ZONING PLANS ADVISORY COMMITTEE

September 1, 1988

State Roads Commiss

Fire Prevention

Jealth Department

Project Planning

Building Department

Board of Education

Zoning Administratio

Industrial

Mr. Michael A. Duff, Esquire Venable, Baetjer and Howard 2 Hopkins Plaza Baltimore, Maryland 21201

RE: Item No. 447 - Case No. 89-66-SPHA
Petitioner: Franklin Square Hospital/Legal Owner
White Square Ltd. Partnership/Lessee
Petition for Zoning Variance and Special Hearing Bureau of & Engineering & Department of fraffic Engineering

The Zoning Plans Advisory Committee has reviewed the plans submitted with the above referenced petition. The following comments are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties are made aware of plans or problems with regard to the development plans that may have a bearing on this case. The Director of Planning may file a written report with the Zoning Commissioner with recommendations as to the suitability of the requested zoning.

Enclose are all comments submitted from the members of the Enclose are all comments submitted from the memoers of the Committee at this time that offer or request information on your petition. If similar comments from the remaining members are received, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on the date of the enclosed filing certificate and a hearing scheduled accordingly.

Very truly yours,

Januar. Dyerldt Chairman
Zoning Plans Zory Committee

cc: Daft-McCune-Walker, Inc. 200 E. Pennsylvania Avenue Towson, Maryland 21204

BELSTNGER SIGN WORKS, INCORPORATED

1300 BAYARD ST. BALTIMORE, MD. 21230

March 28, 1985

QUOTATION

Whiting Turner Contracting Co. 300 E. Joppa Rd. Towson, MD 21204

Attr: Mr. Clinton Curby

Re: WHITE SQUARE PROFESSIONAL BLDG.

We propose to furnish and isntall one set of individual non-illuminated letters for the above referenced project as per our print.

Signage will consist of 8" Melvetica cast aluminum letters with a white baked enamel finish with copy reading as shown.

Letters will be installed on brick wall projecting 1/4" from facade.

The price for this work will be . . \$1435.00 plus sales tax and permits.

One third deposit required with signed contract, balance due upon completion.

We are covered by the necessary property damage and liability insurance to the extent of \$500,000 with an umbrella of \$500,000 also compensation insurance. Price will remain firm for 60 days from today.

A LATE PAYMENT CHARGE WILL BE PAID BY CUSTOMER COMPUTED AT THE RATE OF 2% PER MONTH OR THE MAXIMUM RATE PERMITTED BY APPLICABLE LAW, WHICHEVER IS LESS, FOR THE UNPAID AMOUNT FOR EACH CALENDAR MONTH (OR FRACTION THEREOF) THAT SUCH PAYMENT IS IN DEFAULT.

PRICE: SEE ABOVE plus sales tax and permits if applicable

or parts affocted or destroyed by any act or negligence on the part of the customer, his amployees, contractors, sub-contractors, or agents; by fire, war, terthquake, flood, labor disturbance, and/or act of God. The Company shall not be responsible

failure, no breakage. Light bulbs, lamps & neon tubing 30 days quarantes. 3 - All questions subject to immediate acceptance and change without notice. 4 - Orders cannot be cancelled unives by mutual consent. 5 - Shipments subject to strikes, accidents or causes beyond our control, 6 - Terms: Subject to approval of our credit dept.

for repairs made recessary by natural deterioration of metal parts in sign

BELSINGER SIGN WORKS, INC.

Baltimore County
Department of Public Works
Bureau of Traffic Engineering
Courts Building, Suite 405
Towson, Maryland 21204
494-3554

July 18, 1988

Mr. J. Robert Haines
Zoning Commissioner
County Office Building Towson, Maryland 21204 Dear Mr. Haines:

The Bureau of Traffic Engineering has no comments for items number 391, 413, 438, 439, 442, 443, 444, 446, 447) 448, 450, 451, 452, 453, 454, 455, 456, and 457.

Very truly yours,

Stephen E. Weber, P.E. Assistant Traffic Engineer

SEW/RF/cps

FRANKLIN SQUARE HOSPITAL D.R.5.5 D.R. 5.5 ROSSVILLE D.R. 3.5

